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February 6, 2003

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Motion to Accept as Timely Filed *Ex Parte* Notification in the UNE  
Triennial Review Proceeding

Dear Ms. Dortch:

Please find attached for filing with the Federal Communications Commission the above-referenced Motion of NuVox, Inc., Broadview Networks, Inc., Xspedius Management Co., LLC and SNiP LiNK LLC. Please feel free to contact the undersigned counsel if you have any questions regarding this filing.

Respectfully submitted,



Brett Heather Freedson

cc: Jordan Goldstein  
Qualex International

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of the Section 251 Unbundling	)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange	)	
Carriers	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions of the Telecommunications Act	)	
of 1996	)	
	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	

**MOTION TO ACCEPT AS TIMELY FILED  
EX PARTE NOTIFICATION IN THE UNE TRIENNIAL REVIEW PROCEEDING**

The Petitioners<sup>1</sup> hereby respectfully request that the Federal Communications Commission (the “Commission”), pursuant to section 1.46 of the Commission’s rules,<sup>2</sup> grant this Motion to Accept as Timely Filed their *Ex Parte* Notification in the UNE Triennial Review Proceeding.<sup>3</sup>

On February 5, 2003, counsel for the Petitioners experienced technical difficulty in converting the Notification into a PDF file for submission via the Commission’s Electronic Comment Filing System (“ECFS”). At 1:55 a.m., on February 6, 2003, the Notification was successfully filed with the Commission in electronic format. Because the Notification ultimately was filed less than two (2) hours after the Commission’s midnight filing deadline, the Petitioners believe that neither the Commission staff, nor any interested party in the UNE Triennial Review Proceeding, has been harmed by this minor filing delay. Accordingly, the Petitioners

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<sup>1</sup> The Petitioners include NuVox, Inc., Broadview Networks, Inc., Xspedius Management Co., LLC and SNiP LiNK LLC.

<sup>2</sup> 47 C.F.R. § 1.46.

<sup>3</sup> See CC Docket Nos. 01-338, 96-98 and 98-147.

respectfully request that the Commission grant this Motion to Accept as Timely Filed *Ex Parte* Notification in the UNE Triennial Review Proceeding.

The Petitioners understand that the Commission does not routinely grant motions for the extension of time.<sup>4</sup> However, the Commission may grant such motions where good cause is shown.<sup>5</sup> The technical difficulties experienced by counsel for the Petitioners in converting the Notification to a PDF file for electronic submission caused the Notification to be filed at 1:55 a.m. on February 6, 2003 – less than two (2) hours after the Commission’s midnight filing deadline. Petitioners submit that no party to the UNE Triennial Review Proceeding will be prejudiced by this extremely minor delay in filing. Furthermore, the Notification filed by Petitioners represents the views of a significant cross-section of the industry potentially affected by this Proceeding, and exclusion of the Notification ultimately would cause the record to be incomplete. The Petitioners respectfully submit that the public interest will be served by establishing a complete record, and therefore that acceptance of the Notification by Commission is an essential part of this task.

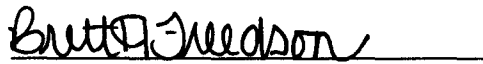
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<sup>4</sup> 47 C.F.R. § 1.46(a).

<sup>5</sup> 47 C.F.R. § 1.46(b).

WHEREFORE, in the interest of establishing a complete record in the UNE Triennial Review Proceeding, and in recognition that no party to that Proceeding would be prejudiced, the Petitioners respectfully request that this Motion to Accept as Timely Filed *Ex Parte* Notification in the UNE Triennial Review Proceeding be granted by the Commission. Pursuant to Sections 1.727(c) and 1.734(d) of the Commission's Rules, a proposed Order for adoption is attached.

Respectfully submitted,



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Suite 500  
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(202) 955-9600

*Counsel for*  
*NuVox, Inc., Broadview Networks, Inc., Xspedius*  
*Management Co., LLC and SNiP LiNK LLC*

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
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	)	
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Advanced Telecommunications Capability	)	

**PROPOSED ORDER**

Upon consideration of the Petitioners'<sup>1</sup> Motion to Accept as Timely Filed *Ex Parte* Notification in the UNE Triennial Review Proceeding,<sup>2</sup> and in response thereto, the Commission hereby finds and orders as follows:

The Motion to Accept as Timely Filed *Ex Parte* Notification in the UNE Triennial Review Proceeding should be granted because the Petitioners represent the views of a significant cross-section of the industry potentially affected by the UNE Triennial Review Proceeding, and exclusion of the Petitioners' *Ex Parte* Notification in that Proceeding ultimately would cause the record to be incomplete. It is in the public interest to compile a complete record in the UNE Triennial Review Proceeding.

Accordingly, IT IS ORDERED that the Motion to Accept as Timely Filed *Ex Parte* Notification in the UNE Triennial Review Proceeding is hereby GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

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<sup>1</sup> The Petitioners include NuVox, Inc., Broadview Networks, Inc., Xspedius Management Co., LLC and SNiP LiNK LLC.

<sup>2</sup> See CC Docket Nos. 01-338, 96-98 and 98-147.

## CERTIFICATE OF SERVICE

I, Brett Heather Freedson, hereby certify that, on this 6<sup>th</sup> day of February 2003, a copy of the foregoing *Motion to Accept as Timely Filed Ex Parte Notification in the UNE Triennial Review Proceeding* was sent by electronic mail to the following individuals:

Marlene H. Dortch, Secretary Federal Communications Commission 445 12 <sup>th</sup> Street, SW Washington, DC 20554
Jordan Goldstein Wireline Competition Bureau Federal Communications Commission 445 12 <sup>th</sup> Street, SW Washington, DC 20554
Qualex International 445 12th Street, SW, Room CY-B402 Washington, DC, 20554



Brett Heather Freedson